

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION INTO ALLEGED UNAUTHORIZED)	
RATES OF WESTERN KENTUCKY GAS COMPANY)	CASE NO. 90-030
)	
_____)	
)	
ALLEGED VIOLATION OF KRS CHAPTER 278)	

O R D E R

This matter arises before the Commission upon the March 2, 1990 motion of the Attorney General of the Commonwealth of Kentucky, by and through his Utility and Rate Intervention Division ("Attorney General"), for full intervention in the above-styled proceeding. Subsequently, on March 9, 1990, the Attorney General filed a defense of his motion to intervene. On March 27, 1990, Western Kentucky Gas Company ("Western"), by and through counsel, filed a response and objected to the Attorney General's motion to intervene and requested the Commission overrule the motion.

After consideration of the motion, Western's response, and being otherwise sufficiently advised, the Commission finds the motion to intervene should be granted based upon the following:

Western argues the Attorney General should not be allowed to intervene in investigative and enforcement type proceedings. Western argues that no customer or consumer has been adversely affected by the alleged unauthorized rates and that the Attorney General has no special interest in this proceeding which is not

otherwise adequately represented by the Commission. The Commission is vested with exclusive jurisdiction over the regulation of rates and services of utilities and is solely responsible for enforcement of the provisions of KRS Chapter 278. There is no rate-making issue and no prospective issue which may impact the customers of Western.

The Attorney General in defense of his motion states that KRS 367.150(8)(a) and (b) provide that the Division of Consumer Protection has the following functions, powers, and duties:

(8)(a) To appear before any federal, state or local governmental branch, commission, department, rate-making or regulatory body or agency, to represent and be heard on behalf of consumers' interests; and

(b) To be made a real party in interest to any action on behalf of consumer interests involving a quasi-judicial or rate-making proceeding of any state or local governmental branch, commission, department, agency, or rate-making body whenever deemed necessary and advisable . . . by the attorney general.

The Attorney General states that he has "deemed such action necessary and advisable." The Attorney General also states that only he "can decide whether consumer interests will be affected in this matter . . ." and ". . . there is no discretion in the Commission regarding the granting of the Attorney General's motion to intervene."

In the instant case, Western is alleged to have charged unauthorized reduced rates to seven transportation customers. This proceeding does not involve any broad interest of consumers or the general ratepayers of Western. As Western states, the "[A]cts being investigated by the Commission in this proceeding

are historical acts only -- no prospective rate-making or utility service issue is involved. . . ."

While this Commission has some doubt as to the Attorney General's authority to intervene as a matter of right in any Commission proceeding deemed advisable, the Commission has resolved these doubts in this instance as a matter of policy.

IT IS THEREFORE ORDERED that the Attorney General's motion for full intervention is granted.

Done at Frankfort, Kentucky, this 25th day of May, 1990.

PUBLIC SERVICE COMMISSION


For the Commission

ATTEST:


Executive Director